



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

8-1

PLANNING COMMISSION

*Promoting the wise use of land
Helping build great communities*

MEETING DATE February 23, 2006	CONTACT/PHONE John McKenzie 781-5452	APPLICANT Eric Forbes	FILE NO. COD2005-00048
SUBJECT Request by Eric Forbes to appeal the Planning Director's decision, that a partially-constructed, unpermitted secondary residence is within the required canyon rim setback of 20 feet, as specified in Section 22.112.030.C.1.c (Black Lake Canyon Sensitive Resource Area standards). The project has resulted in the disturbance of approximately 2,000 square feet of an approximate 3.8-acre parcel. The proposed project is located at 2138 Callender Road, approximately 800 feet east of Sheridan Road, within the Callender-Garrett village on the Nipomo Mesa. The site is in the South County planning area.			
RECOMMENDED ACTION 1. Deny the appeal of the Planning Director's decision.			
ENVIRONMENTAL DETERMINATION Not Required			
LAND USE CATEGORY Residential Suburban	COMBINING DESIGNATION Sensitive Resource Area	ASSESSOR PARCEL NUMBER 091-173-009	SUPERVISOR DISTRICT(S) 4
PLANNING AREA STANDARDS: 22.112.030 - Areawide Combining Designation for Black Lake Canyon SRA planning area standards 22.30.470 - Residential - Secondary Dwellings			
EXISTING USES: Single-family residence, partially-constructed secondary residence, undeveloped (Black Lake Canyon)			
SURROUNDING LAND USE CATEGORIES AND USES: North: Residential Suburban/cluster homes w/ golf course East: Residential Suburban/single family home South: Residential Suburban/single family home West: Residential Suburban/single family home			
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: None			
TOPOGRAPHY: Nearly level to steeply sloping		VEGETATION: Ornamental, eucalyptus grove, riparian	
PROPOSED SERVICES: Water supply: Shared well Sewage Disposal: Individual on-site septic system Fire Protection: CDF			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242			

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BACKGROUND:

In early October, 2005, it was brought to Planning staff's attention that an unpermitted structure was under construction near the edge of Black Lake Canyon. The partially-constructed secondary residence was "red-tagged" because the applicant had not applied for a permit to construct the unit. Staff met shortly thereafter with the applicant on-site to evaluate the structure's proximity to the canyon rim and permitting requirements.

A single-family residence with a surrounding yard exists on the subject property along Callender Road. With the exception of the unpermitted secondary unit that is under construction, the remainder of the property is undeveloped and covered with eucalyptus and riparian vegetation. A man-made trail (approximately 4 to 8-foot wide) was installed many years ago immediately below the partially-constructed secondary unit.

A portion of the property is within the Sensitive Resource Area combining designation to protect Black Lake Canyon biological resources. Several rare and endangered plants exist within Black Lake Slough, such as Gambel's watercress and Marsh sandwort. Based on the county's official maps, the SRA line extends onto the property between about 140 and 160 feet along the property's northern boundary. The topography of the property can be described as including an approximate 220-foot long "finger" at the southeast corner that is gently sloping, which quickly and discernibly becomes steeply sloping until it reaches the bottom of Black Lake Slough. A large stable swale exists along the western edge and extends to the canyon bottom. Several nearby homes constructed prior to the establishment of the Black Lake Standards are on or slightly within the Canyon Rim.

ORDINANCE/PLANNING AREA STANDARDS: As a part of this assessment, planning staff reviewed compliance with the Black Lake Canyon planning area standards. In particular, LUO Section 22.112.030.C.1.c states for new development within the SRA designation that they "maintain at least a 20-foot building setback from the rim of the canyon". Also, LUO Section 22.112.030.C.1.b says "No permanent structures, impervious surfacing, grading, removal of natural vegetation, sewage disposal systems or water wells are allowed below the canyon rim..." There are a couple of exceptions for water wells and limited grading activities.

Black Canyon's "rim" ranges from a fairly well defined grade break commonly found on the south side, to gradually sloping sections without a discernable break in grade (more common on the north side). When there is no discernable break, staff has historically used the point where the slopes become 15% to use in place of a "rim". As a part of staff's on-site assessment, it was determined that this property fell into the "well-defined rim" category. Staff also determined that the secondary residence footprint follows approximately along the edge of the canyon rim, with the cantilevered deck extending within the canyon rim.

LUO Section 22.30.470 includes design standards to be applied to new secondary residences. In this case, the project meets these standards with the exception of the distance from the primary residence. For a 3.8-acre property with a shared well and on-site septic system, the design standard specifies a 50-foot maximum from the primary residence. Exceptions to design standards may be allowed, but would need to get approval through the Minor Use Permit process. By moving the structure to be outside of the 20-foot rim setback, the project would conform to this distance standard.

PROJECT DESCRIPTION:

The applicant would like to complete construction of an approximate 800 square foot secondary residence, which is an allowed use in the Residential Suburban category. The foundation has already been installed, as well as some of the framing. As is currently built, an approximate 624 square foot concrete cantilevered deck has been integrated into the foundation design that projects into the canyon approximately 12 feet. The secondary residence is approximately 70 feet from the primary residence. The partially constructed secondary residence was "red-tagged" due to the applicant not applying for, nor receiving, a permit to construct the house.

MAJOR ISSUES

Staff is recommending denial of the appeal, which would result in the removal of the foundation and relocation much closer to the existing primary residence. Suitable area exists near the existing home to accommodate a secondary residence and meet the 20-foot canyon rim setback.

At a cumulative level, there are over 60 parcels around Black Lake Canyon that include the SRA designation. While some of these existing parcels already have secondary units or are built out, there are many left that could build a secondary or primary unit that would otherwise be subject to this 20-foot canyon rim setback requirement. Should the appeal be upheld, a precedent may be set for those remaining canyon rim lots not fully built out, where they might also request to reduce or eliminate this setback. Over time, staff has observed numerous developments within the canyon watershed that have directly resulted in substantial construction erosion and development sediment ending up in the canyon bottom due to work within or immediately at the edge of the canyon rim during the rainy season, which have filled in large portions of several of the environmentally sensitive slough ponds.

A grading permit will be required to remove the foundation. LUO Section 22.112.030.C.1.f. requires that any grading below the rim of the canyon be subject to environmental review. At such time, potential sedimentation and erosion impacts will be carefully evaluated and mitigation measures developed as needed (e.g., no work during rainy season, etc.). A building permit will be required to install the secondary residence that is adequately set back from the canyon rim. Care will need to be taken when removing the foundation to avoid any disturbance beyond the area that has already been disturbed, as well as avoid work within the rainy season, and such considerations should be carried forward to these permits.

No agencies were contacted at this time.

Staff report prepared by John McKenzie and reviewed by Kami Griffin.

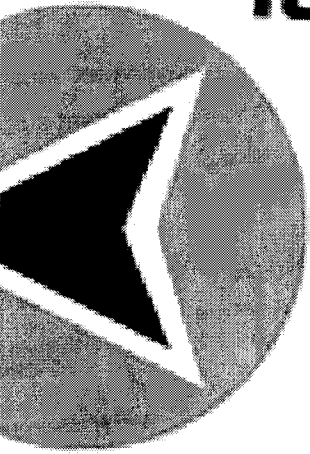
8-4

FINDINGS - EXHIBIT A

- A. The proposed secondary unit is inconsistent with Section 22.112.030.C.1.c that states for properties with the SRA combining designation that new buildings “maintain at least a 20-foot building setback from the rim of the canyon”. The existing rim of the canyon for this property is shown on Exhibit B. The partially-constructed secondary residence is within this setback. Adequate area exists on the site outside of the 20 foot rim setback area and the secondary unit should be constructed in this location.

- B. Any demolition/removal of foundation will require grading below the canyon rim, which will be subject to the CEQA review process because Section 22.112.030.C.1.b says “No permanent structures, impervious surfacing, grading, removal of natural vegetation, sewage disposal systems or water wells are allowed below the canyon rim...” with a couple of exception provisions for certain water wells and limited grading permits (which are required to be reviewed through the CEQA process, as specified in LUO Section 22.112.030.C.1.f). At such time, potential impacts to sensitive biological resources will be evaluated and mitigation measures developed (e.g., no construction or demolition work done between October 15 and April 15, etc.).

- C. This request for an interpretation of the Land Use Ordinance is not a “project” under the California Environmental Quality Act and therefore does not require an environmental determination.

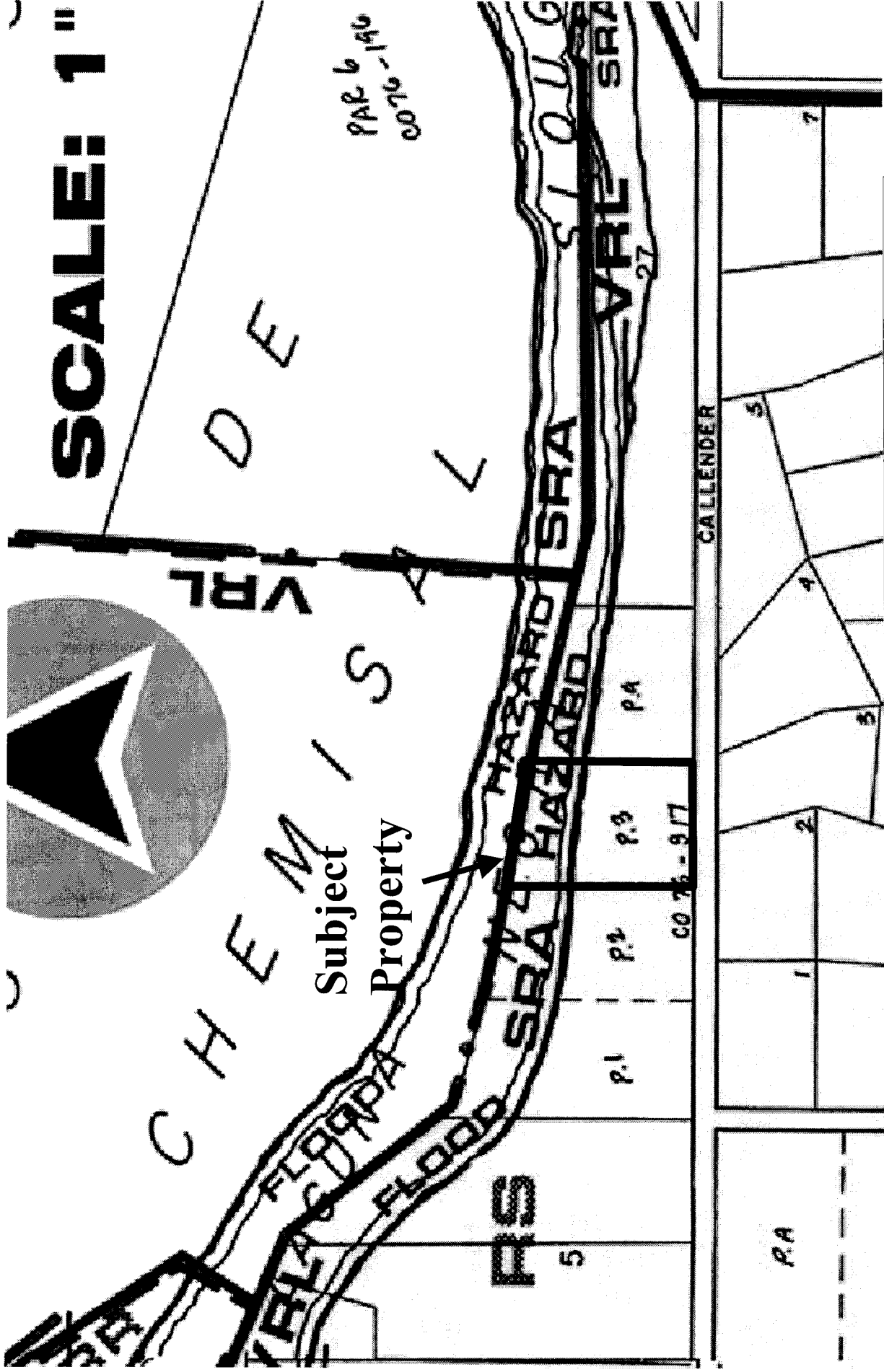


SCALE: 1"

CHEMIS

Subject Property

8-5
PAR 6-196
COD 76-196



Forbes Secondary Residence - COD2005-00048

Subject
Property

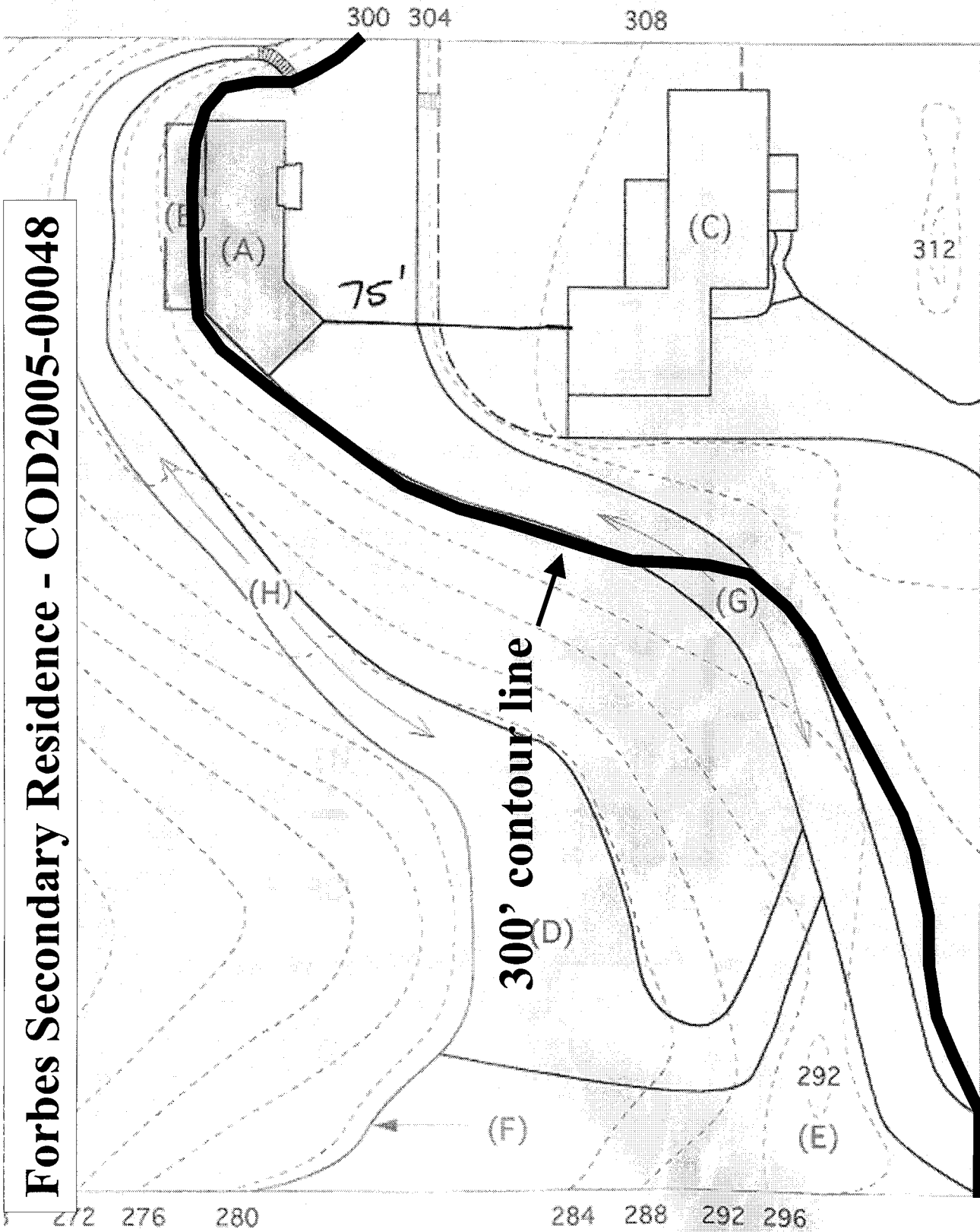


Forbes Secondary Residence - COD2005-00048

17-2003 AirPhoto

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Forbes Secondary Residence - COD2005-00048

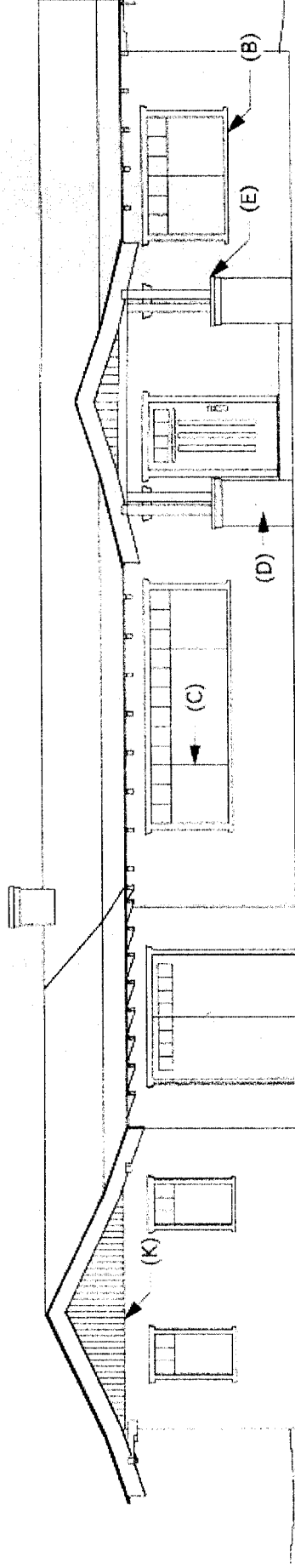


CALLENDER ROAD

Forbes Secondary Residence - COD2005-00048



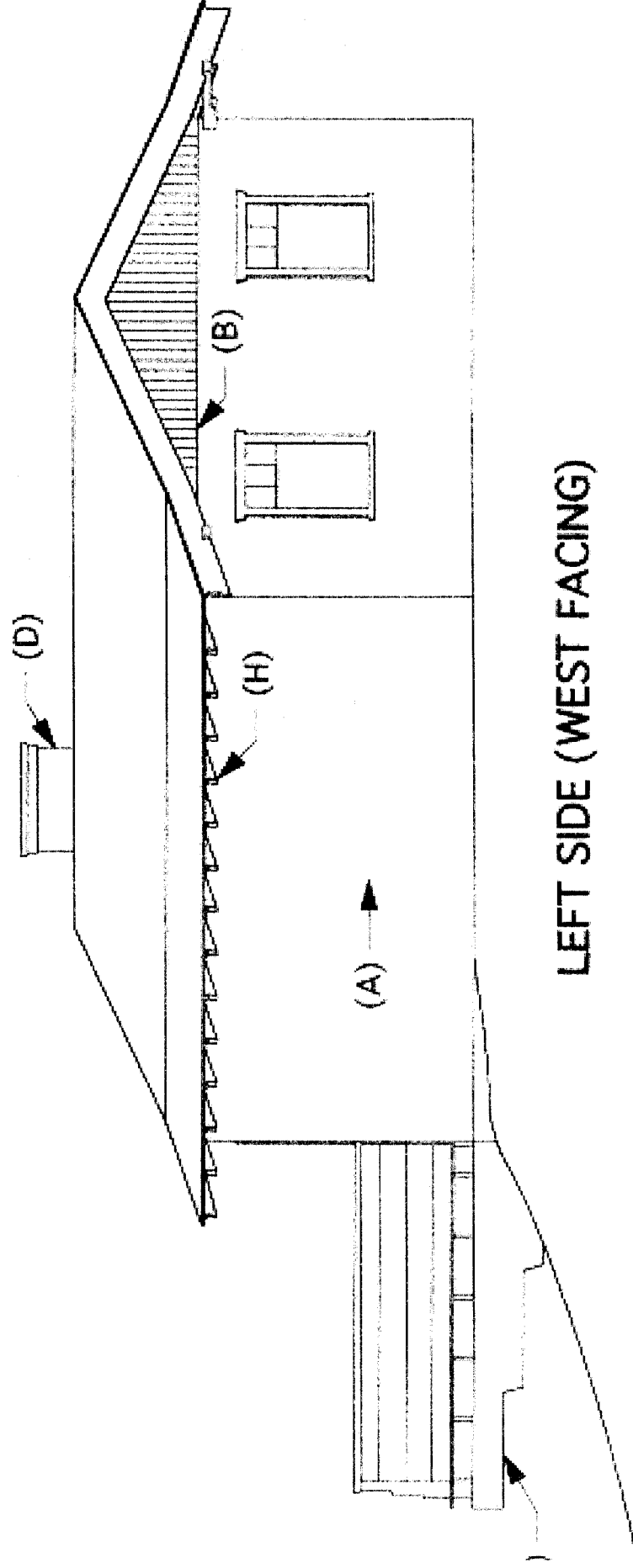
8-9



FRONT (SOUTH FACING)

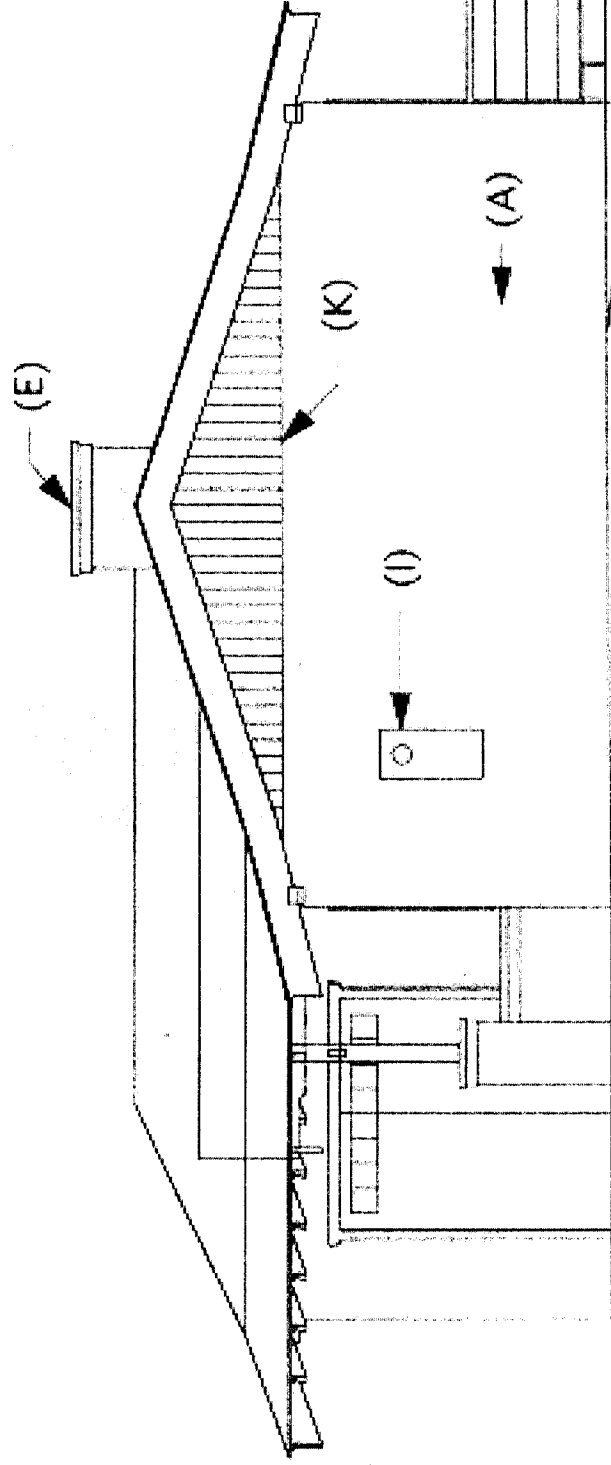
Forbes Secondary Residence - COD2005-00048

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LEFT SIDE (WEST FACING)

Forbes Secondary Residence - COD2005-00048



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RIGHT SIDE (EAST FACING)

Forbes Secondary Residence - COD2005-00048

Garage: 22'-0" x 16'-0"

Living Room: 8'-0" x 3'-0"

Kitchen: 4'-5 1/2" x 9'-2"

Bath: 5'-4" x 6'-8 1/2"

Bedroom: 9'-11 1/2" x 12'-8 1/2"

Deck: 3'-2" x 9'-2"

Overall Dimensions: 25'-1 3/8" x 43'-7"

Other Dimensions: 19'-11 1/2", 1'-0 1/2", 2'-5 1/2", 5'-3", 10'-11", 43'-7", 12'-0", 26'-5 1/2", 22'-0", 6'-8 1/2", 4'-5 1/2", 2'-4 1/2", 5'-4 1/2", 4'-7"

Labels: WSR DRY, F.P., F.A.U., WH, (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q)

Forbes Secondary Residence - COD2005-00048



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Forbes Secondary Residence - COD2005-00048

C. Sensitive Resource Area (SRA) - Black Lake Canyon (SRA-1). The following standards apply within the Sensitive Resource Area combining designation.

1. **General standards.** The following standards apply to all properties in the Black Lake Canyon SRA combining designation except for the replacement or reconstruction of existing water wells, which are subject to Subsection C.2. These standards will be considered for clarification and revision during the Black Lake Canyon General Plan amendment and environmental impact review process. As part of the General Plan amendment, an inventory of canyon resources and necessary protective measures is being prepared in the Black Lake Canyon Enhancement Plan.
 - a. **Access limitation.** Road access to new and existing parcels shall be from local streets above the canyon rim, except that below the canyon rim, access from adjacent parcels may be to a possible public road crossing of the canyon if no other access is feasible.
 - b. **Limitations on improvements.** No permanent structures, impervious surfacing, grading, removal of natural vegetation, sewage disposal systems or water wells are allowed below the canyon rim except as provided by Subsections C.1.d through C.1.f. A determination of whether proposed activities will extend below the canyon rim shall be made by the Department as individual applications are reviewed.
 - c. **Setbacks.** Maintain at least a 20-foot building setback from the rim of the canyon.
 - d. **Environmental review for new water well permits.** All applications to permit the drilling of new water wells (excluding the replacement or reconstruction of existing legal nonconforming wells) below the rim of the canyon and outside the Sensitive Resource Area boundary shall be subject to the environmental review procedures as contained in the County Environmental Quality Act Guidelines, and as required by the conditions of the negative declaration ED 81-08 for the County General Plan amendment G810519:2. The environmental review, with a completed environmental determination, shall be accomplished prior to the issuance of a well-drilling permit from the County Department of Public Health.
 - e. **Location of new well sites.** New well sites shall be located a minimum 150 feet from the marsh vegetation. Access roads to the well site shall not impinge on the marsh site, and shall be located and limited in use as determined by the environmental review process.
 - f. **Grading permit.** A grading permit, subject to the environmental review procedures contained in the California Environmental Quality Act and completed in compliance with Chapter 22.52, shall be required for any proposed grading activities or site disturbances that will occur below the rim of Black Lake Canyon outside of the Sensitive Resource Area boundary, including grading for agricultural uses. The grading permit application shall include a comprehensive erosion and sedimentation control plan utilizing soil erosion prevention and protection measures as recommended by the Natural Resources Conservation Service, and provision of a wildlife corridor of native vegetation extending from the canyon rim to the canyon

bottom. The location and size of the corridor shall be determined through the environmental review process. Installation of permanent or temporary structures utilized for controlling drainage may be permitted within the Sensitive Resource Area designation only if such structures are approved as part of the approved sedimentation and erosion control plan.

- g. **Rare or endangered plant species.** The provision of protective measures for rare or endangered plant species, as designated on the current, official list of the California Department of Fish and Game Commission, shall be accomplished as part of the environmental review for individual applications.
- h. **Protection of wetlands.** Properties proposed for development that contain wetlands or are adjacent to wetlands shall develop a small diameter observation well to monitor the groundwater level in the shallow upper aquifer. Significant declines in the shallow water table attributable to the production from proposed new wells shall necessitate the implementation of protective measures by the property owner to preserve water levels within marsh areas. The details of the monitoring program shall be developed by the Office of the Environmental Coordinator at the time of the environmental review of individual water well permit applications.

[Amended 1982, Ord. 2096; 1983, Ord. 2157; 1997, Ord. 2800]

- 2. **Well reconstruction and replacement.** The following standards apply to the reconstruction or replacement of existing legal nonconforming wells.
 - a. **Location of replacement well sites.** Where the existing well being replaced is within 150 feet of a marsh and/or wetland area, the replacement well shall be located no closer to the marsh or wetland than the well being replaced.
 - b. **Permit requirements for replacement wells.** The application for a well-drilling permit shall include a Zoning Clearance showing the location of the well being replaced, its casing size and depth and the approximate operational capacity prior to its failure; the location of the proposed new well; the access route to the proposed drilling site; and relationship to marsh or wetland areas if they exist on the property.
 - c. **Construction standards for replacement wells.** Replacement wells shall be "in-kind" wells; they shall not exceed the capacity of the well being replaced. The new well shall be constructed to the standards contained in the conditional negative declaration (ED 83-206) for General Plan amendment G831019:2, on file with the Department and the Department of Public Health.

[Amended 1983, Ord. 2157]

22.30.470 - Residential - Secondary Dwellings

A second permanent dwelling may be allowed in compliance with this Section in addition to the first dwelling on a site allowed by Section 22.10.130 (Residential Density), provided the site and the existing primary dwelling comply with all other applicable provisions of this Title. (A caretaker residence is subject to Section 22.30.430, farm support quarters are subject to Section 22.30.480.)

A. Authority. Secondary dwellings are authorized in compliance with the authority established by Government Code Sections 65852.2 et seq.

B. Limitations on use.

1. **Accessory unit only.** A secondary dwelling shall be accessory to a primary dwelling and shall not be established on any site containing a guesthouse (Section 22.30.410) or more than one dwelling unit, except where a guesthouse is proposed to be converted to a secondary unit in compliance with this Section.
2. **Occupancy of primary and secondary units restricted.** No secondary dwelling shall be approved in compliance with this Section unless an owner of the site agrees to occupy one unit on the site as his or her primary residence. Prior to final building inspection, the applicant for a second unit shall record a notice against the property notifying any subsequent purchaser that failure to meet this requirement will subject the second unit to abatement by the County in compliance with Chapter 22.10.

C. Limitations on location.

1. **Excluded areas.** A secondary dwelling shall not be allowed within the following areas, where secondary units are deemed incompatible with existing development, or where the density increase from secondary units would create adverse cumulative effects on essential community services and natural features. These services and features include but are not limited to water supplies, storm drainage facilities, roadway traffic capacities, and soils with limited suitability for septic system sewage disposal, or that are subject to erosion.
 - a. **Atascadero.** The areas south of the Atascadero urban reserve line within the Residential Suburban land use category, as defined by the Land Use Element, Salinas River area plan, except for parcels with direct driveway access to El Camino Real.
 - b. **Nacimiento area.** The areas identified by the Land Use Element, Nacimiento area plan as being within the South Shore Area or the villages of Heritage Ranch or Oak Shores.
 - c. **Specific subdivisions.** Secondary dwellings are not allowed within Tracts 7, 17, 19, and 502.
 - d. **Regional Water Quality Control Board (RWQCB) exclusion.** All areas of the County where the RWQCB has issued a notice of resource constraints through moratoria or other means.

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2. **Minimum access.** A secondary dwelling is allowed only on a site that has frontage:
- On a road or private easement that is maintained by the County, State or special district;
 - On a road that is offered for dedication to the public and is surfaced with chip seal or better; or
 - On a private easement that is surfaced with chip seal or better.

For the roads or easements described in Subsections C.2.b or C.2.c, the access shall be maintained through organized maintenance, such as a road maintenance agreement or homeowners association.

D. **Application content.** In addition to the information required by Section 22.62.030, information submitted with the Zoning Clearance application shall also indicate whether or not there are conditions, covenants or restrictions applicable to the site that would prohibit a secondary dwelling. This information will not be grounds for county denial of a permit.

E. **Minimum site area.** A secondary dwelling may be allowed only on sites with the following minimum areas:

- 6,000 square feet for sites served by community water and sewer facilities;
- One acre (net) where on-site water supply and sewage disposal systems are proposed on an existing parcel, provided that all applicable requirements for separation between the existing septic system, new septic system for the secondary dwelling and any on-site and off-site water wells are satisfied, as well as all other applicable provisions of Title 19 of this Code for septic system design and performance; or
- One acre (gross) where community water and on-site sewage disposal are proposed on an existing parcel, provided that all applicable provisions of Title 19 of this Code for septic system design and performance are satisfied.

Except that where a larger minimum site area requirement is established by planning area standards (Article 9), the larger area shall be required.

F. **Design standards.**

1. **Within the Residential Single-Family category.**

- The maximum floor area of a secondary dwelling shall be 640 square feet, except that such area may be increased to a maximum of 800 square feet (exclusive of any garage) where the site satisfies the requirements of Subsection F.1.b.

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- b. The secondary dwelling shall be permanently attached by a common wall to the primary dwelling or on the second floor of the primary dwelling's detached garage and shall use the same design style except:
 - (1) Where the site area is 12,000 square feet or larger and the site is served by community water and sewer; or
 - (2) Where the site area is one acre (net) or larger and the site is served by community water and on-site sewage disposal; or
 - (3) Where the site area is 2.5 acres (net) or larger and the site is served by on-site water supply and sewage disposal.

In these cases the secondary dwelling may be detached if it employs an exterior design style compatible with the primary dwelling and is located on the rear of the site, provided that no more than 50 percent of the site shall be covered by structures.

- c. Entrances shall be designed to maintain the character of a single dwelling and to avoid the attached secondary dwelling changing the appearance of the primary dwelling to resemble a duplex. The entrance to an attached secondary dwelling shall not be located on the same building face as the entrance to the primary dwelling unless the entrance to both the primary and secondary dwellings is shared.

2. Other allowed land use categories.

- a. The maximum floor area of a secondary dwelling shall be 800 square feet, except that such area may be increased to a maximum of 1200 square feet (exclusive of any garage) where the site satisfies the requirements of Subsections F.2.b.
- b. The secondary dwelling shall be permanently attached by a common wall to, or located within 50 feet of, the primary dwelling or on the second floor of the primary dwelling's detached garage and shall use the same design style except:
 - (1) Where the site is two acres (net) or larger and the site is served by community water or sewer; or
 - (2) Where the site area is five acres (net) or larger and the site is served by on-site water supply and sewage disposal.

In these cases the secondary dwelling may be detached from the primary dwelling but shall be of a design style compatible with the existing primary dwelling. For sites of 20 acres or larger in residential categories, the secondary dwelling shall be located within 500 feet of the primary dwelling. For sites less than 20 acres, the secondary dwelling shall be located within 250 feet of the primary dwelling. An attached secondary dwelling shall comply with the design provisions of Subsection F.1.c.

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- 3. Exceptions to design standards.** The Review Authority may approve alternatives to the design standards of Subsections F. and C.2 in compliance with Section 22.62.050, but shall not approve alternatives to any other provision of this Section.

- G. Parking.** A secondary dwelling shall be provided one off-street parking space in addition to those required for the primary residence by Chapter 22.18 (Required Parking Spaces - Residential Uses). The parking space shall be located, designed and constructed in compliance with Chapter 22.18.

[Added 1985, Ord. 2211; Amended 1986, Ord. 2251; 1988, Ord. 2344; 1992, Ord. 2539, 2553; 1994, Ord. 2696; 1995, Ord. 2714; 1995, Ord. 2741] [22.08.169]

8-20

Correspondence



Inland Appeal Application

San Luis Obispo County Department of Planning and Building

PROJECT INFORMATION

Type of permit being appealed:

- ☐ Plot Plan ☒ Site Plan ☐ Minor Use Permit ☐ Development Plan ☐ Variance
☐ Land Division ☐ Lot Line Adjustment ☐ Sending Site Determination ☐ Other _____

File Number: COD 2005-00048

The decision was made by:

- ☒ Planning Director ☐ Building Official ☐ TDC Review Committee ☐ Administrative Hearing Officer
☐ Subdivision Review Board ☐ Planning Commission ☐ Other _____

Date the application was acted on OCTOBER 18 2005

The decision is appealed to:

- ☐ Board of Construction Appeals ☐ Board of Handicapped Access ☒ Planning Commission ☐ Board of Supervisors

BASIS FOR APPEAL

Appeal Reasons: Please state your reasons for the appeal. In the case of a Construction Code Appeal, note specific code name and sections disputed (*attach additional sheets if necessary*). Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

SEE ATTACHED LETTER

Specific Conditions. The specific conditions that I wish to appeal that relate to the above referenced grounds for appeal are

Condition Number	Reason for appeal (<i>attach additional sheets if necessary</i>)

APPELLANT INFORMATION

Print name: LEZIK ROBES

Address: 2138 CALLENDER RD Phone Number (daytime): 801-8514
Arroyo Grande, CA 93420

We have completed this form accurately and declare all statements made here are true.

Signature: [Signature]

OCTOBER 25 2005
Date

OFFICE USE ONLY

Date Received: 10-26-05
Amount Paid: \$587.-

By: MLV
Receipt No. (if applicable): _____

Revised 7/31/01/ep

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805)781-5600 • 1-800-834-4636

EMAIL: ipcoping@slonet.org

FAX: (805) 781-1242

WEBSITE: <http://www.slocoplanbldg.com>

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Erik Forbes
2138 Callender Road
Arroyo Grande CA 93420

October 25, 2005

Department of Planning and Building
County Government Center
San Luis Obispo CA 93408

RE: COD2005-00048

To Whom It May Concern,

I wish to appeal the recent decision concerning the location of the rim of Black Lake Canyon on my property at 2138 Callender Road. The decision was made by John McKenzie on October 18, 2005, and was based on information I provided and his own review of "pictures, aerials, maps etc".

In conversations I have had with Mr. McKenzie about his decision, I am troubled by the lack of methodology used in making his decision, inconsistent analysis of the relevant data as well as the use of irrelevant data, and I do not believe he is interpreting the Community Planning Standards correctly. For these reasons I wish to appeal the decision.

Sincerely,

A handwritten signature in black ink, appearing to be 'Erik Forbes', written in a cursive style.

Erik Forbes



SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

8-23

VICTOR HOLANDA, AICP
DIRECTOR

October 18, 2005

Erik Forbes
2138 Callendar Road
Arroyo Grande, CA 93420

RE: Unpermitted Secondary Residence at 2138 Callendar Road (COD2005-00048)

Mr. Forbes,

At our weekly management review team meeting on 10/12, your item was discussed. Based on the packet of information you submitted, along with reviewing other information (pictures, aerials, maps, etc.), the Planning Director has determined that the partially constructed secondary residence is within the 20-foot setback of the "canyon rim". Also, the deck, due to it being cantilevered, would be counted as part of the structure footprint, and is considered encroaching within the canyon rim.

In this case, as is the case with much of the properties on the south side of the canyon, the canyon rim is reasonably well defined, and the "15% slope rule" would not apply (which is used when an obvious break in slope at the canyon rim is not well defined).

Based on the above conclusion, the partially constructed residence is not in compliance with the county's Land Use Ordinance (LUO). At this point, it appears you have three options to pursue to resolve your situation. These include:

1. Request for a Variance – if you pursue this option, you would make a request for a Variance of the required setback. However, as described in our Land Use Ordinance (Section 22.62.070), there are several findings that would be difficult for staff to make to be able to support the project (see attached LUO excerpt). You would need to demonstrate how your situation is unique from all of the other Black Lake Canyon properties with canyon rims, as well as how approval of this action would not be granting special privileges when compared to surrounding property development. The Planning Commission will make the decision on the Variance. If a variance is not approved, you would need to comply with option #3.
2. Appeal of the Planning Director's decision – As provided for under Section 22.70.050 of the County LUO, **you may appeal the Planning Director's decision within 14 days from the date of this letter.** The appeal would be submitted to the Planning Director and then taken before the Planning Commission for a decision. If the Planning Commission agrees with the Planning Director's decision, you could then apply for a Variance (and would be going back to the same decision making body), or you would need to comply with option #3

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- B. **Application.** A written application for Variance shall be filed with the Department of Planning and Building on the form provided, accompanied by all graphic information required for Zoning Clearance by Section 22.62.030 (Zoning Clearance Content), and any additional information necessary to explain the request. Acceptance of the application is subject to Section 22.04.030.A (Allowable use), and 22.60.050.A (Determination of Completeness).
- C. **Notice and hearing.** After acceptance of a Variance application and completion of a staff report, the Commission shall conduct a public hearing on the Variance request. Notice and scheduling of the hearing shall comply with Section 22.70.060 (Public Hearing).
- D. **Action on a Variance.** The Commission shall approve, approve subject to conditions, or disapprove a Variance in compliance with this Subsection. The decision may be appealed to the Board in compliance with Section 22.70.050 (Appeals).
1. **Findings.** Approval or conditional approval may be granted only when the Commission first determines that the Variance satisfies the criteria in Government Code Section 65906 by finding that:
- a. The Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use category in which the property is situated; and
 - b. There are special circumstances applicable to the property, related only to size, shape, topography, location, or surroundings, and because of these circumstances, the strict application of this Title would deprive the property of privileges enjoyed by other property in the vicinity that is in the same land use category; and
 - c. The Variance does not authorize a use that is not otherwise authorized in the land use category; and
 - d. The granting of the Variance does not, under the circumstances and conditions applied in the particular case, adversely affect public health or safety, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.
2. **Conditions of approval.** In approving an application for Variance, conditions shall be adopted as are deemed necessary to enable making the findings required by Subsection D.1.
- E. **Effective date of Variance.** The approval of a Variance shall become final and effective for the purposes of construction permit issuance or establishment of a non-structural use, on the 15th day after the act of Commission approval; unless before that time an appeal to the decision is filed in compliance with Section 22.70.050 (Appeals).

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Erik Forbes
2138 Callender Road
Arroyo Grande, CA 93420

October 4, 2005

John McKenzie
Department of Planning and Building
Environmental & Resource Mgmt. Div.
County Government Center. Rm. 310
San Luis Obispo, CA 93408-2040

RE: 2138 Callender Road Project.

Dear Mr. McKenzie

Thank you for visiting my site and giving your honest evaluation of it. As you know, I did not agree with everything you said, but I respect your position and hope that we can continue to discuss the issues in question.

I think that it would be fair to say that we both recognized that the Community Planning Standards do not provide much guidance in determining where or what the rim of the canyon is. To try to understand this and other issues better I looked up the EIR for Cypress Ridge and the EIR mentioned in the Community Planning Standards for the Black Lake Canyon SRA and found both helpful in answering some of the questions we discussed.

To begin with, I was fascinated to learn, what you probably already know, that Black Lake Canyon was formed in the last ice age some 10,000 years ago and has remained relatively intact since then as the forces that formed it have ceased. My specific property was probably planted with eucalyptus in the late 1800's to early 1900's. The site was then graded and a single family home was built on it in the early 1970's. Improvements in the form of a trailer pad, road, and barn/workshop were made soon after the first owner moved in. I have some idea as to the history and original contours of the property because my neighbor did the grading for the improvements mentioned (he is a backhoe operator). According to my neighbors memory and later confirmed with soil samples taken by GSI Soils inc. the hill with the secondary unit originally appeared as depicted in the cross sections of fig 1.

The area of the project appears to have originally been a ridge extending, in a perpendicular fashion, into Black Lake Canyon. What appears to have happened when the ridge was graded for the barn/workshop was that dirt was pushed towards the edges of the ridge, and piled up in the area of the "back yard" of the primary dwelling. Samples taken by GSI soils confirm this, showing that the top layer of soil is thicker on the edge of the pad and thinner towards the center of the pad, whereas in an undisturbed slope of

slope of similar circumstances a more even top layer of soil would be expected. See attached soil report excerpts.

Using the depiction of the undisturbed slope in fig. 1 to help determine the rim of the canyon as is called for by the Community Planning Standards, presents some problems. The first problem is that the change in slope relative to the top of the ridge is a gradual one with no apparent physiographic clue as to where the rim of the canyon might be. The Cypress Ridge EIR discusses this same difficulty on pages V-3 thru V-5. The EIR explains that on areas of the Cypress Ridge property the forces that formed the canyon often intersected existing formations leaving no recognizable rim (See fig. 4 taken from the Cypress Ridge EIR). It seems that a similar conditions exist on the ridge in question and therefore the same problem in determining the location of a rim.

The second problem is in determining the relevance of the changes in grade made over the past 40 years to the site. Should the division of areas with "mesa influence" and "canyon influence" be made, by considering the undisturbed condition of the border or should it take into account existing conditions? Unfortunately the Community Planning Standards do not offer any guidance in answering this question. The EIR's for Cypress Ridge and the Black Lake Canyon SRA, however do, albeit in an indirect way. Both EIR's identify preservation of the marshland flora and fauna as the goal of the SRA and the condition of the canyon walls important only insofar as they help preserve the flora and fauna of the canyon, such as, by preventing erosion and providing wildlife corridors etc. In fact, the Black Lake Canyon EIR goes so far as to consider several differing methods of bordering the SRA that do not involve the rim of the canyon and recommending areas planted with eucalyptus, (such as my property) be removed from the SRA when not part of a buffer zone around marshland (pages VI-1 thru VI -12). Also, it should be noted that the forces that created the canyon are no longer at work, so there is not the necessity to return the canyon back to its natural state so that natural forces may continue undisturbed, as would be the case for other natural eco/geo systems. So, based on the practical approach taken by the EIR's mentioned, it would seem that non-natural changes made to slopes should be considered when trying to separate mesa influenced areas from those of the canyon.

In the Cypress Ridge EIR, and as far as I am aware, Planning Department policy also, takes the approach that when the rim of the canyon can not be identified an alternate method for determining mesa and canyon influenced areas is used. I believe this alternate approach is what should be used for my site as the "rim of the canyon" designation does not apply well to the undisturbed slope of the site and there is no method for applying it to a disturbed slope, as well as some reluctance by planning officials to do so.

If the alternate method is used, i.e. using the edge of a 10 – 15% slope as a method for separating mesa from canyon influence, the division would appear as it does in figs. 5 and 6 for the undisturbed ridge and existing conditions respectively. In both cases the project is on the mesa side of the canyon boarder. The cantilever deck in both instances is also above the canyon boarder, the border being a question of elevation,

8-27

rather than latitudinal and/or longitudinal location as described in the Community Planning Standards (22.112.030).

I realize that there are implications to decisions such as this one so I have listed some impacts relative to different interpretations of the canyon boarder:

Border Interpretation I

Favorable Impacts:

- (1) Slightly less visual impact from canyon side.

Unfavorable Impacts

- (1) No practical and /or close location for leach lines. Due to the location of existing well and limitations on leach lines near the canyon boarder.
- (2) Increased erosion from canyon side of site, because there will be no barrier to erosion by wind and water.
- (3) Cars parked on canyon side of dwelling may cancel out favorable impact #1.
- (4) Driveway could not be paved, increasing dust and erosion caused by vehicles.

Border Interpretation II

Favorable Impacts

- (1) Project would provide a barrier to erosion into the canyon.
- (2) Existing leach lines could be used providing fewer impacts.
- (3) Driveway could be paved reducing dust and erosion from vehicles.

Unfavorable Impacts

- (1) Some visual impact from canyon side providing existing trees are removed.

In either case, impacts to what is important, the flora and fauna of the canyon are minimal, with continuation of the existing project, as planed, having fewer unfavorable impacts. I can only hope you agree.

Sincerely,



Erik Forbes

8-28

CROSS SECTION 1



CROSS SECTION 2

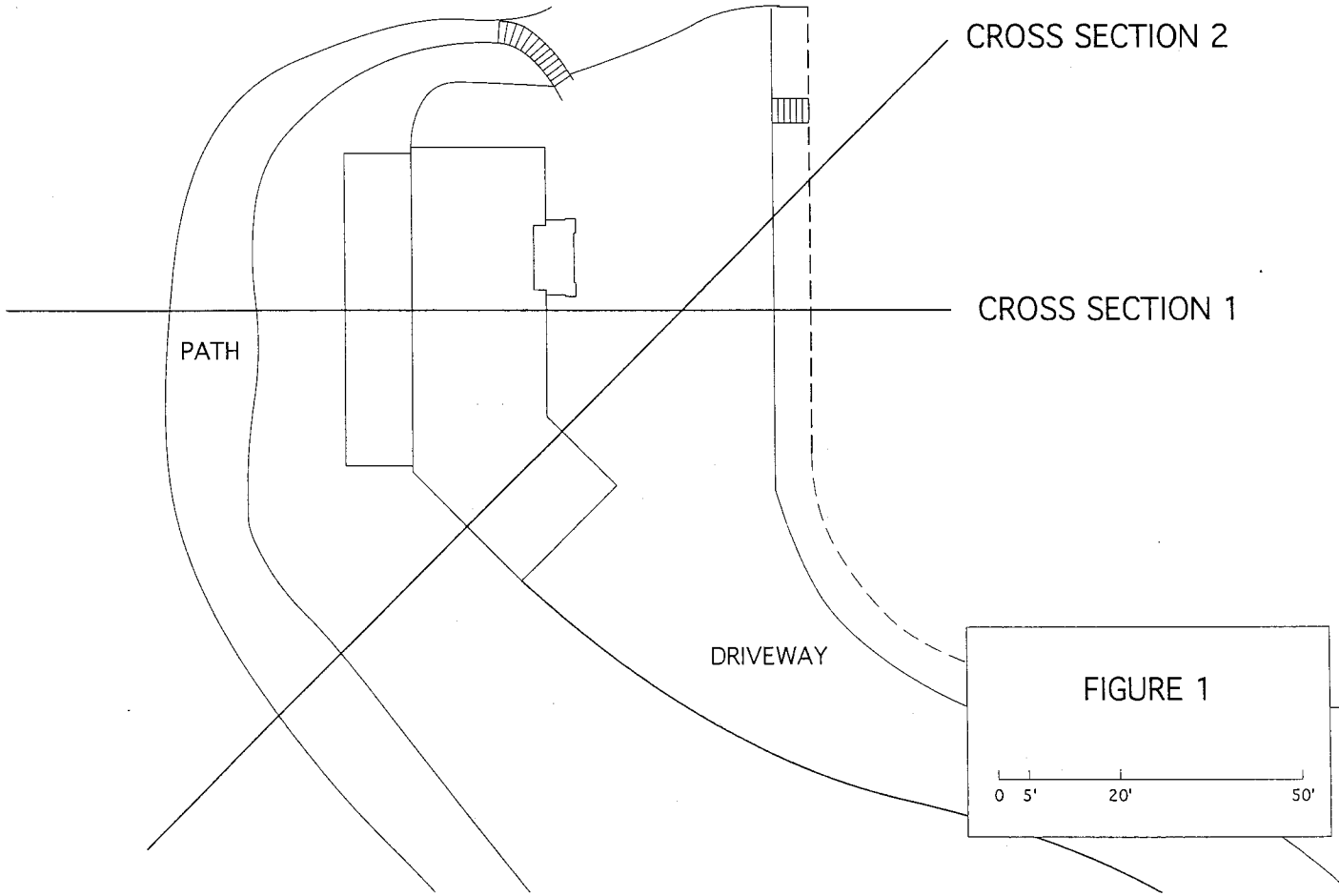
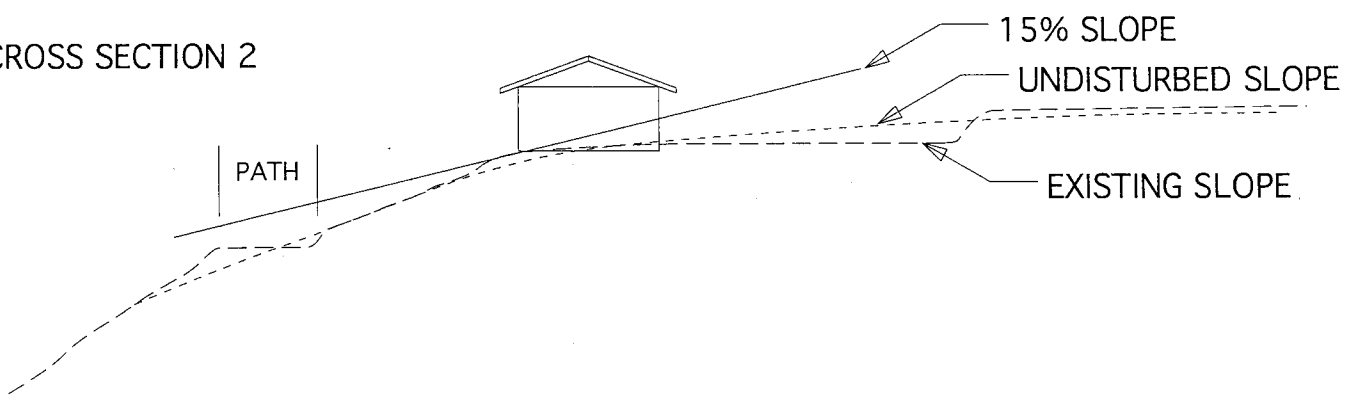


FIGURE 1

0 5' 20' 50'

8-29

Excerpts From Soil Report Prepared For
2138 Callender Road Project

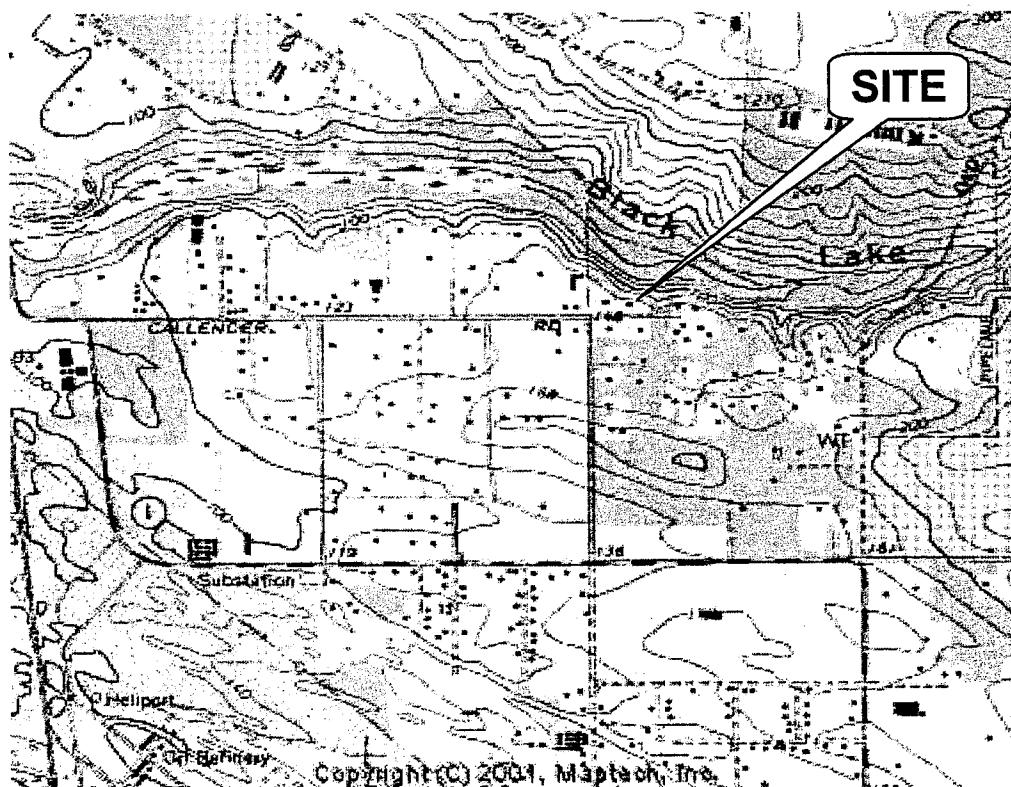


GEOTECHNICAL INVESTIGATION
PROPOSED GRANNY UNIT
2138 CALLENDER ROAD
ARROYO GRANDE, CALIFORNIA

8-30

April 21, 2005

PROJECT 5-3071



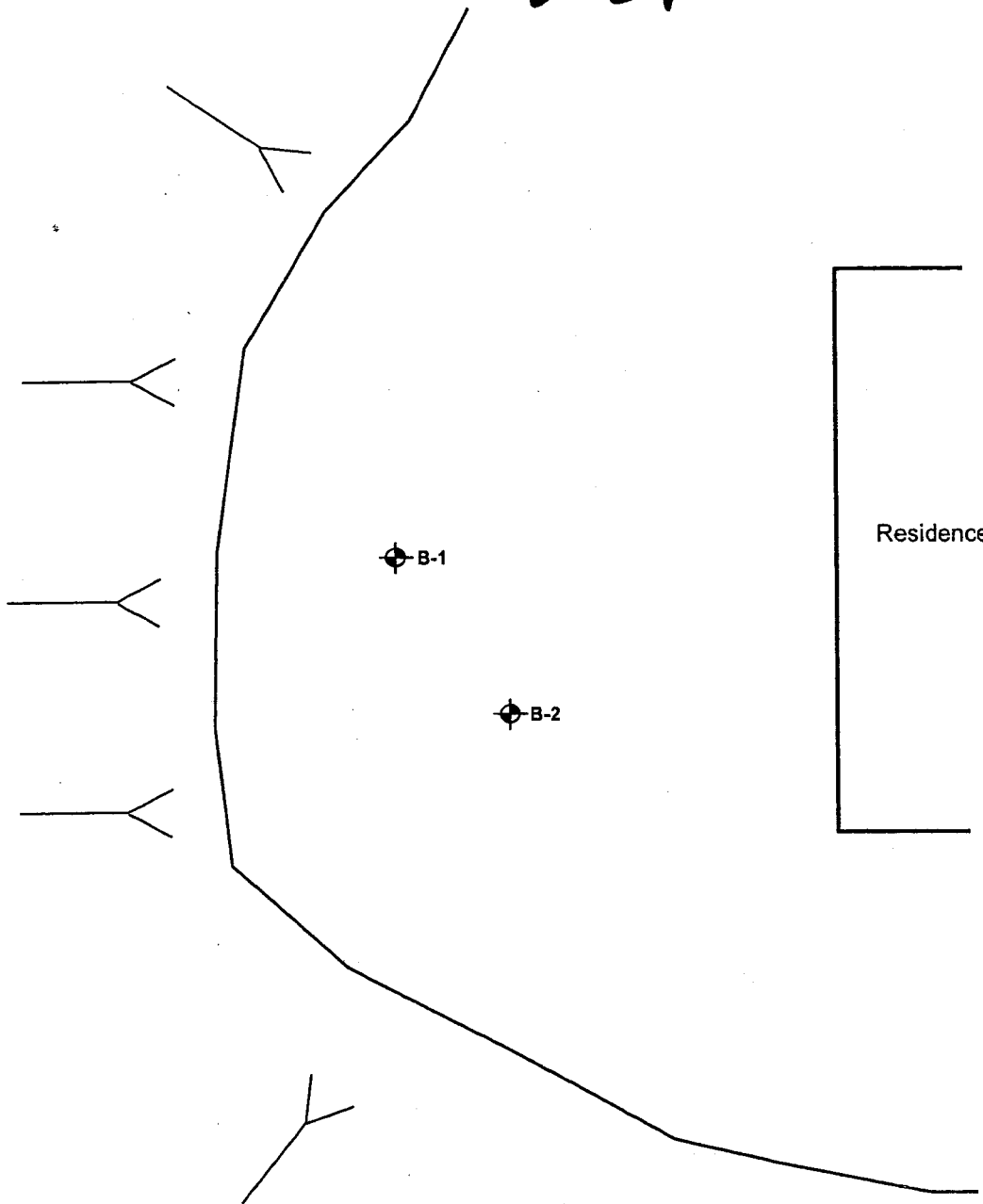
PREPARED BY:

GSI SOILS INC.
141 SUBURBAN ROAD STE D-1
SAN LUIS OBISPO, CA 93401
(805) 543-5493

PREPARED FOR:

ERIC FORBES
2138 CALLENDER ROAD
ARROYO GRANDE, CA 93420

8-31



⊕ Boring Location



SITE SKETCH
PROPOSED GRANNY UNIT
2138 CALLENDER ROAD
ARROYO GRANDE, CALIFORNIA

Project No.

Figure No.

5-3071

2

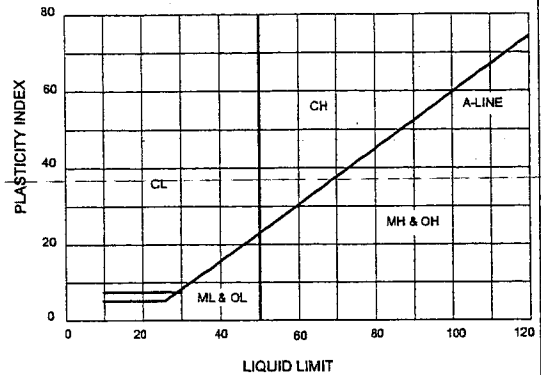
8-32

UNIFIED SOIL CLASSIFICATION SYSTEMS

MAJOR DIVISION			SYMBOLS	TYPICAL NAMES
COARSE GRAINED SOILS Over 50% > #200 sieve	GRAVELS Over 50% > #4 sieve	CLEAN GRAVELS WITH LITTLE OR NO FINES	GW	WELL GRADED GRAVELS, GRAVEL-SAND MIXTURES
			GP	POORLY GRADED GRAVELS, GRAVEL-SAND MIXTURES
		GRAVELS WITH OVER 12% FINES	GM	SILTY GRAVELS, POORLY GRADED GRAVEL-SAND-SILT MIXTURES
			GC	CLAYEY GRAVELS, POORLY GRADED GRAVEL-SAND-CLAY MIXTURES
	SANDS Over 50% < #4 sieve	CLEAN SANDS WITH LITTLE OR NO FINES	SW	WELL GRADED SANDS, GRAVELLY SANDS
			SP	POORLY GRADED SANDS, GRAVELLY SANDS
		SANDS WITH OVER 12% FINES	SM	SILTY SANDS, POORLY GRADED SAND-SILT MIXTURES
			SC	CLAYEY SANDS, POORLY GRADED SAND-CLAY MIXTURES
			ML	INORGANIC SILTS, SILTY OR CLAYEY FINE SANDS, OR CLAYEY SILTS WITH SLIGHT PLASTICITY
			CL	INORGANIC CLAYS OF LOW TO MEDIUM PLASTICITY, GRAVELLY, SANDY, OR SILTY CLAYS, LEAN CLAYS
FINE GRAINED SOILS Over 50% < #200 sieve	SILTS AND CLAYS Liquid limit < 50		OL	ORGANIC CLAYS AND ORGANIC SILTY CLAYS OF LOW PLASTICITY
			MH	INORGANIC SILTS, MICACEOUS OR DIATOMACEOUS FINE SANDY OR SILTY SOILS, ELASTIC SILTS
			CH	INORGANIC CLAYS OF HIGH PLASTICITY, FAT CLAYS
	SILTS AND CLAYS Liquid limit > 50		OH	ORGANIC CLAYS OF MEDIUM TO HIGH PLASTICITY, ORGANIC SILTS
			PI	PEAT AND OTHER HIGHLY ORGANIC SOILS
	HIGHLY ORGANIC CLAYS			

PLASTICITY CHART

USED FOR CLASSIFICATION OF FINE GRAINED SOILS



SOIL GRAIN SIZE

U.S. STANDARD SIEVE									
	6"	3"	3/4"	4	10	40	200		
BOULDERS	COBBLES		GRAVEL		SAND			SILT	CLAY
			COARSE	FINE	COARSE	MEDIUM	FINE		
	150	75	19	4.75	2.0	0.425	0.075	0.002	
SOIL GRAIN SIZE IN MILLIMETERS									

SAMPLE DRIVING RECORD

BLOWS PER FOOT

DESCRIPTION

25	25 BLOWS DROVE SAMPLER 12 INCHES, AFTER INITIAL 6 INCHES OF SEATING
50/7"	50 BLOWS DROVE SAMPLER 7 INCHES, AFTER INITIAL 6 INCHES OF SEATING
Ref/3"	50 BLOWS DROVE SAMPLER 3 INCHES DURING OR AFTER INITIAL 6 INCHES OF SEATING

NOTE: TO AVOID DAMAGE TO SAMPLING TOOLS, DRIVING IS LIMITED TO 50 BLOWS PER 6 INCHES DURING OR AFTER SEATING INTERVAL

KEY TO TEST DATA

B	Bag Sample	CONS	Consolidation (ASTM D2435)
H	Drive, No Sample Collected	DS	Cons. Drained Direct Shear (ASTM D3080)
1/2	2 1/2" O.D. Mod. California Sampler, Not Tested	PP	Pocket Penetrometer
1/2	2 1/2" O.D. Mod. California Sampler, Tested	GSD	Grain Size Distribution (ASTM D422)
SPT	Standard Penetration Test	CP	Compaction Test (ASTM D1557)
R	Sample Attempted with No Recovery	EI	Expansion Index (ASTM D4829)
WL	Water Level at Time of Drilling	LL	Liquid Limit (in percent)
WL	Water Level after Drilling	PI	Plasticity Index

RELATIVE DENSITY

SANDS, GRAVELS, AND NON PLASTIC SILTS	BLOWS/FOOT
VERY LOOSE	0 - 4
LOOSE	4 - 10
MEDIUM DENSE	10 - 30
DENSE	30 - 50
VERY DENSE	OVER 50

RELATIVE DENSITY

CLAYS AND PLASTIC SILTS	STRENGTH	BLOWS/FOOT
VERY SOFT	0 - 1/4	0 - 2
SOFT	1/4 - 1/2	2 - 4
FIRM	1/2 - 1	4 - 8
STIFF	1 - 2	8 - 16
VERY STIFF	2 - 4	16 - 32
HARD	OVER 4	OVER 32



PROJECT NO.: 5-3071

DATE DRILLED: 4/15/2005


**SOIL CLASSIFICATION CHART
AND BORING LOG LEGEND**

**PROPOSED GRANNY UNIT
ARROYO GRANDE, CALIFORNIA**

FIGURE NO.

A-1

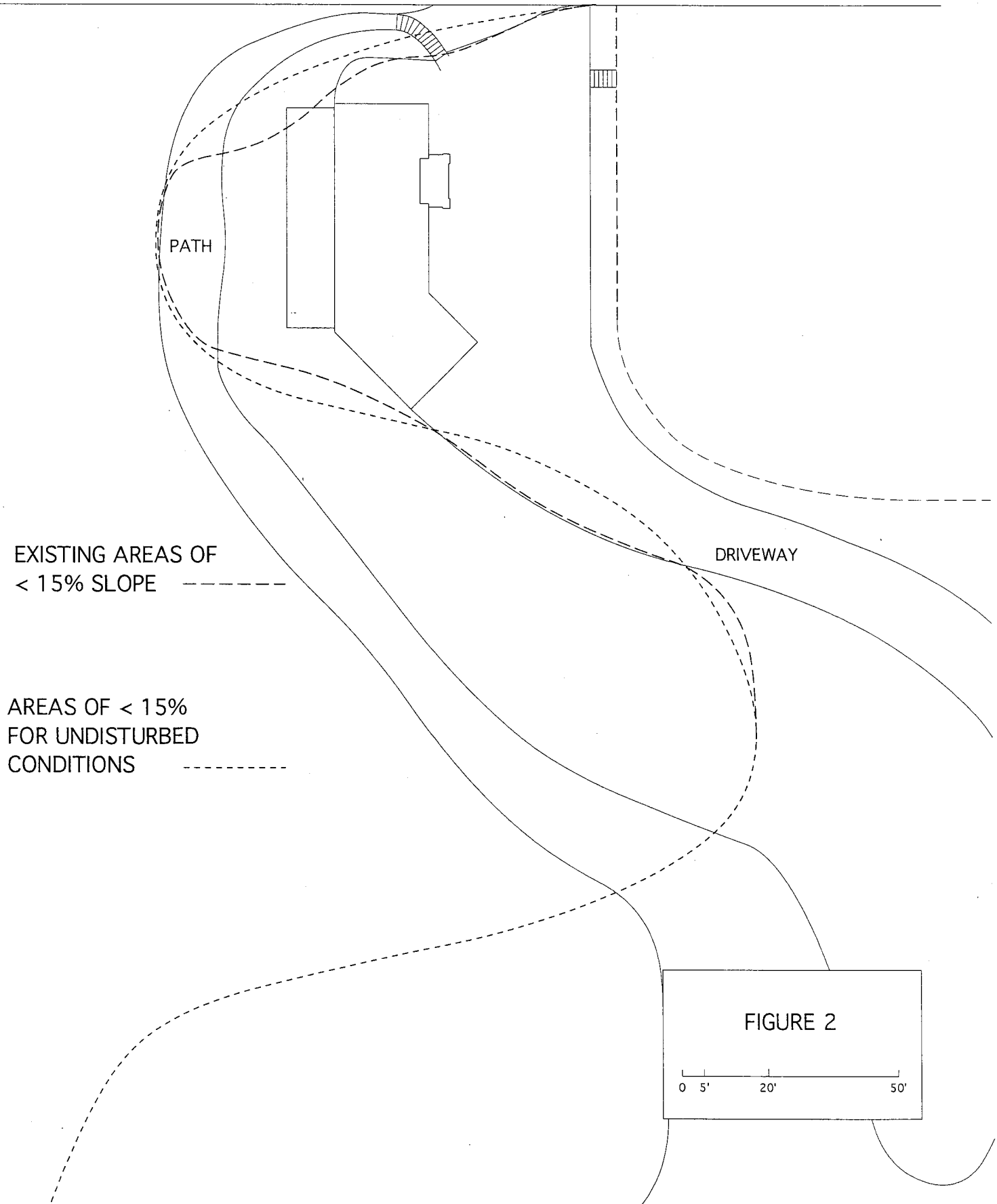
8-33

LOGGED BY: DW		DRILL RIG: Simco 2400		BORING NO.: B-1								
ELEVATION: 145'		BORING DIAMETER (INCH): 4		DATE DRILLED: 15 April 2005								
GROUNDWATER DEPTH (FT):												
ELEVATION (FT)	DEPTH (FT)	GRAPHIC LOG	GEOTECHNICAL DESCRIPTION	SOIL TYPE	SAMPLE	CONV. SPT BLOW COUNT	WATER CONTENT (%)	DRY DENSITY (PCF)	LIQUID LIMIT	PLASIT. INDEX	UNC. COMP. STRENGTH (PSF)	COMMENTS AND ADDITIONAL TESTS
144	1		Silty Sand: dark yellow brown, moist, fine to medium grained, loose	SM								
143	2		brown, slightly moist, decreasing silt		B		7.6					
142	3				B							
141	4				▲	8	4.1	96.4				
140	5											
139	6		Sand: light yellow brown, slightly moist, fine to medium grained, some silt, medium dense	SP								
138	7											
137	8				B							
136	9				II	24	2.7					
135	10											
134	11		dense									
133	12											
132	13				B							
131	14											
130	15				II	38	3.4					
129	16		Boring terminated at 16 feet									
128	17											
127	18											
126	19											
125	20											
EXPLORATORY BORING LOGS												
				PROPOSED GRANNY UNIT 2138 CALLENDER ROAD								
				PROJECT NO. 5-3071			DATE April-05			FIGURE NO. A-2		

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LOGGED BY: DW		DRILL RIG: Simco 2400		BORING NO.: B-2									
ELEVATION: 145'		BORING DIAMETER (INCH): 4		DATE DRILLED: 15 April 2005									
GROUNDWATER DEPTH (FT):													
ELEVATION (FT)	DEPTH (FT)	GRAPHIC LOG	GEOTECHNICAL DESCRIPTION	SOIL TYPE	SAMPLE	CONV. SPT BLOW COUNT	WATER CONTENT (%)	DRY DENSITY (PCF)	LIQUID LIMIT	PLASIT. INDEX	UNC. COMP. STRENGTH (PSF)	COMMENTS AND ADDITIONAL TESTS	
144	1		Silty Sand: dark yellow brown, slightly moist, fine to medium grained, loose	SM									
143	2				B		6.1						
142	3		Sand: light yellow brown, slightly moist, fine to medium grained, some silt, medium dense	SP		10	3.0	94.6					
141	4												
140	5												
139	6												
138	7												
137	8				B		4.9						
136	9												
135	10		moist		II	23	7.8						
134	11		Boring terminated at 11 feet										
133	12												
132	13												
131	14												
130	15												
129	16												
128	17												
127	18												
126	19												
125	20												
EXPLORATORY BORING LOGS													
				PROPOSED GRANNY UNIT 2138 CALLENDER ROAD									
				PROJECT NO. 5-3071			DATE April-05			FIGURE NO. A-3			

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Excerpts From Cypress Ridge EIR

8-37

c. Geologic Hazards

Geologic hazards or constraints are limited to the potential for erosion of the soft sands where disturbed on moderately steep to steep slopes. Hazards due to natural or man-induced landslides are essentially non-existent at the site, and problems that may result from shallow groundwater (i.e., liquefaction, surficial seepage) are limited to the canyon bottom which is not proposed for development involving structures. Strong earthquake shaking should be expected, but the hazard is no greater, and is generally less than in many parts of the county. More specifically, the most likely source of strong shaking is a magnitude 8 earthquake expected on the San Andrea's fault located along the eastern boundary of the county. The intensity of shaking at the site during such an event should be well below levels taken into account in the applicable version of the Uniform Building Code. The likelihood of a major event on the offshore Hosgri fault, while applicable to the design of hazardous/critical facilities such as nuclear reactor sites, is so low as to not be appropriate in designing structures for ordinary uses such as residential or commercial.

The potential for erosion of the soft sands that mantle the site has been evaluated by examining the extent of erosion on disturbed areas at the project site and also at the previously investigated site of the Black Lake Golf Course project. This examination indicates that erosion due to sheet flow is imperceptible, and that erosion due to moderate concentrations of flow (as along roads) is relatively minor on slopes up to approximately 15%. On disturbed slopes exceeding 15%, erosion from sheet flow tends toward "moderately severe" (i.e., gullies several inches deep). Instances of severe to moderately severe erosion are limited to the upper portions of several gullies on the flank of Black Lake Canyon near the south corner of the site. These erosional features are limited to the steeper slopes on the site (approximately 20%), and they appear to be relatively recent as the sand deposits downslope are small in comparison to natural, alluvial fan deposits observed in other parts of the canyon. However, based on experience with similar sand materials elsewhere in the county, erosion can become "severe" (i.e., gullies several feet deep) even on relatively gentle slopes (less than 10%) if highly concentrated runoff is not controlled.

d. Wetlands in Black Lake Canyon

A second aspect of the geology and physiography of Black Lake Canyon is its influence on hydrology which, in turn, is the major control on the wetlands in the canyon. Figure V-1 includes a canyon profile that extends from Highway 1 on the left to the head of the canyon near Pomeroy Road on the right. The Paso Robles Formation is interpreted as underlying the bottom of the canyon at shallow depth based on the presence of perched water in ponds in the upper canyon near the Black Lake Golf Course development. The profile is moderately steep (50 feet/mile) in the upper canyon, but is almost flat in the lower canyon which begins near the southeast corner of the project site. In the upper canyon, the ponds are "perched", probably on locally impermeable layers of the Paso Robles Formation, as the persistent water table is approximately 150 feet below the elevation of the ponds (Figure V-1). In the lower canyon, the persistent water table is near the level of the bottom of the canyon, and a freshwater, marshy environment has developed. The hydrology of the ponds is discussed in greater detail in the Water Resources section and in Appendices B and D of this EIR.

2. Regulatory Setting

a. Rim of Black Lake Canyon, County Land Use Element

The County Land Use Element of the General Plan, Inland Portion, contains implementation standards regarding the "rim of the canyon" as follows:

8-38

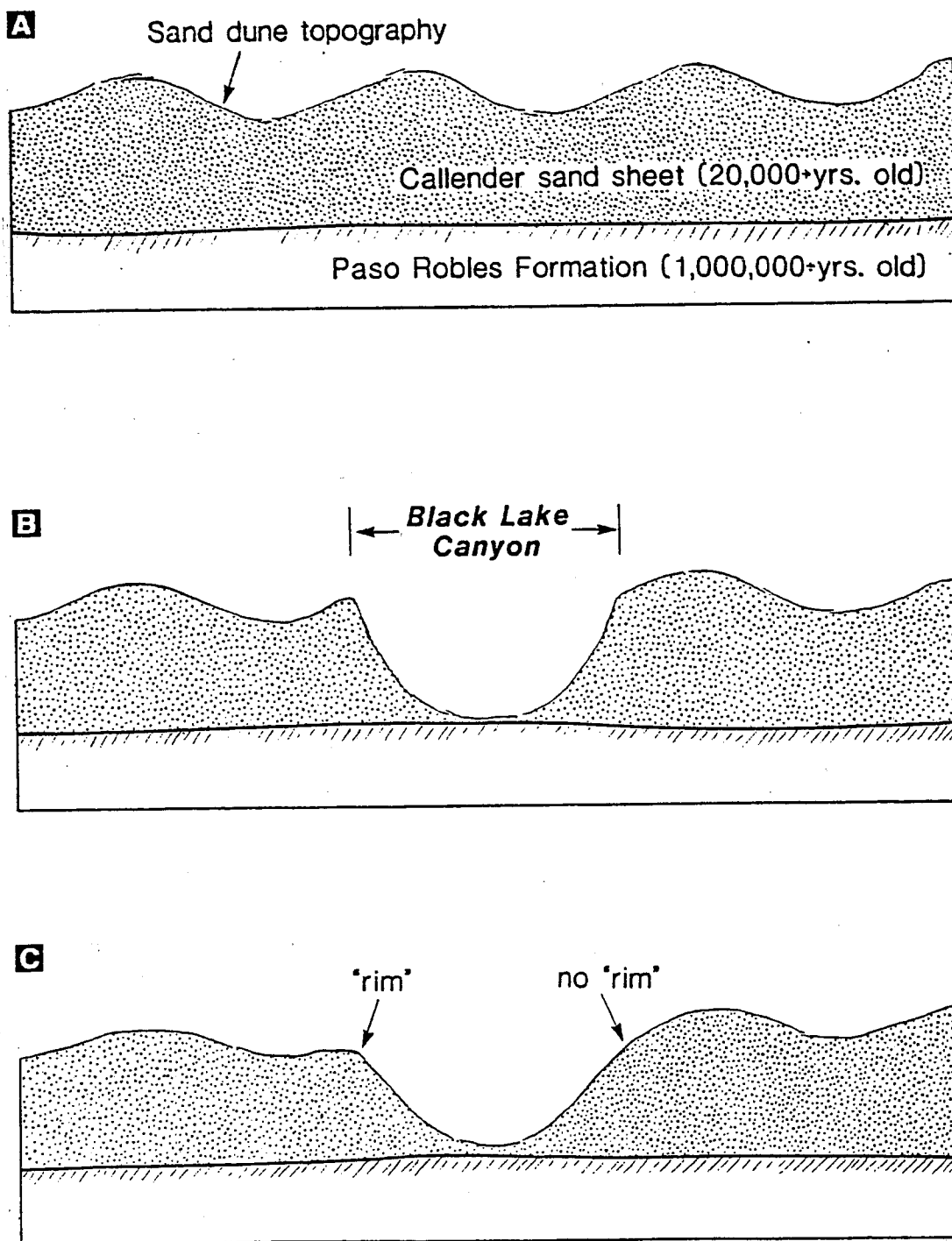


Figure V-2. Diagrammatic cross section illustrating the physiographic development of Black Lake Canyon: A, before canyon cutting; B, immediately after canyon cutting; and C, at present. Topography is exaggerated. From Envicom, 1985.

8-39

Excerpts From Black Lake Canyon SRA EIR

8-40

VI. ALTERNATIVES

The alternative section of the EIR has been prepared in accordance with Section 15126(d) of the State CEQA Guidelines. Item (3) of this section of the Guidelines defines the scope of this analysis as follows:

"(3) The discussion of alternatives shall focus on alternatives capable of eliminating any significant adverse environmental effects or reducing them to a level of insignificance, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." (Emphasis added.)

The Guidelines also provide direction for the decision-makers regarding findings of overriding consideration in Section 15093:

"(a) CEQA requires the decision-maker to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) Where the decision of the public agency allows the occurrence of significant effects which are identified in the final EIR but are not at least substantially mitigated, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. This statement may be necessary if the agency also makes a finding under Section 15091(a)(2) or (a)(3).

(c) If an agency; makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the Notice of Determination."

The county has clear county-wide policies to encourage agricultural land uses. Therefore, if this emphasis is to be continued, the Board of Supervisors would have to make findings of overriding consideration (per Sections 15091 and 15093) to allow agricultural and ancillary development such as water wells) regardless of the potential for unavoidable adverse environmental consequences.

The emphasis of the analysis is focused on the ability of each alternative to eliminate or reduce significant adverse environmental effects. The "environmentally superior" alternative is identified as the alternative capable of minimizing

Table 5. Comparison of Alternatives

Property Owner's Alternative²

Preferred Alternative

Proposed Project²

No Project Alternative¹
(Existing SRA Standards¹)

Issues

SRA Boundary

Definition: Located along approximate "rim" of canyon. The boundaries were drawn to correspond as closely as possible to the area designated as "Scenic Restrictive" in the Open Space Element of the general plan. On the southern side of the canyon, the SRA boundary was drawn to correspond to topographic lines indicating steep slopes and a clear terrain break that established a canyon "rim." On the more gradual slopes of the north side of the canyon, the SRA boundary does not follow any one contour line. In the vicinity of property now owned by Mr. Filipe, the original SRA boundary cut across the contours of the property and varied in elevation from 300 to 400 feet. This was revised with approval of the Stigers/Johnson General Plan Amendment (G810519:2/ ED 81-108) and lowered the SRA boundary to the 270 foot elevation on the applicant's property and the adjacent easterly parcels of the canyon's north side.

Adopt an SRA boundary coincident with the wetland and marsh areas within Black Lake Canyon plus a 100-foot setback area. Actual wetland boundary shall be determined as part of individual project reviews by the Planning Department.

Same as proposed project.

Revise SRA boundary as illustrated on Figure 8. This boundary includes sensitive botanical resources, steep slopes, erosion hazards, and archaeologically sensitive areas. Setbacks from wetland boundaries are intended to provide sufficient space to adequately protect the wetland while allowing for short-term and long-term fluctuations of water levels within the wetland basins. Include additional protective area, labeled on Figure 8 as Special Environmental Resource Area (SERA). This boundary includes additional areas of biological and archaeological sensitivity, and provides a buffer zone to protect the SRA from erosion/sedimentation originating adjacent to, but outside of, the SRA boundary.

Access

Standard No. 7: Road access to new and existing parcels is to be accomplished from local streets above canyon rim. (Standard applies only to Black Lake Canyon SRA.)

Road access to new and existing parcels within the Black Lake Canyon SRA and plant survey area (see Figure 4) shall be from local streets above the canyon bottom. The old platted subdivision road shall not be used for public access. The use of this road is limited to the property owners existing private easement rights. Access roads to new well sites shall not impinge on the marsh sites.

Same as proposed project.

Same as proposed project.

Limitations on Improvements

Standard No. 8: No permanent structures, impervious surfacing, grading, removal of natural vegetation, sewage disposal systems or water wells are allowed below the canyon rim except as provided by Standards No. 10 through 12. A determination as to whether proposed activities will extend below the canyon rim shall be made by the Planning Department as individual applications are reviewed.

No permanent structures, impervious surfacing, grading, removal of natural vegetation (except eucalyptus trees), sewage disposal systems or water wells are allowed within proposed SRA (wetlands plus 100 feet) except that existing waterwells and their related structures may be replaced; however, they may not be located any closer to the wetland areas than existing improvements (see also standards for replacement wells).

Same as proposed project.

No permanent structures, impervious surfacing, grading, removal of native and naturalized vegetation (excluding eucalyptus trees), sewage disposal systems or water wells shall be allowed within the SRA boundary. Existing deep water wells and their related structures may be replaced in emergency situations only; however, they may not be located within 100 feet of the wetland areas (see also standards for replacement wells).

Setbacks

Standard No. 9: Maintain at least a 20-foot building setback from the rim of the canyon.

Maintain at least a 100-foot structural and waterwell setback from the wetland areas (proposed SRA boundary) in the canyon unless a greater setback is required by CEQA or the Land Use Ordinance. The actual wetland boundary areas shall be determined as part of individual project reviews by the Planning Department.

Same as proposed project.

Site-specific environmental review shall be required for the siting of structures within the SERA boundary. Such review shall be conducted by the Office of Environmental Coordinator and shall consider erosion hazard and impacts to sensitive plants, plant communities and archaeological resources within the SERA.

8-41

Table 5. (Continued)

Issues	No Project Alternative ¹ (Existing SRA Standards ¹)	Proposed Project ²	Property Owner's Alternative ²	Preferred Alternative
Grading Permit	<p>Standard No. 12: A grading permit, subject to the environmental review procedures contained in the California Environmental Quality Act and completed in accordance with Chapter 22.05 of the County Land Use Ordinance, shall be required for any proposed grading activities or site disturbances that will occur below the rim of Black Lake Canyon outside of the Sensitive Resource Area boundary, including grading for agricultural uses. The grading permit application shall include a comprehensive erosion and sedimentation control plan utilizing soil erosion prevention and protection measures as recommended by the Soil Conservation Service, and provision of a wildlife corridor of native vegetation extending from the canyon rim to the canyon bottom. The location and size of the corridor shall be determined through the environmental review process. Installation of permanent or temporary structures utilized for controlling drainage may be permitted within the Sensitive Resource Area designation only if such structures are approved as part of the approved sedimentation and erosion control plan.</p>	Delete standard. Rely on existing LDO requirements.	Same as proposed project.	Same as existing standard, with addition that all development proposed within the SERA shall be subject to environmental review by the Office of Environmental Coordinator.
Rare or Endangered Species	<p>Standard No. 13: The provision of protective measures for rare or endangered plant species, as designated on the current, official list of the California Department of Fish and Game Commission, shall be accomplished as part of the environmental review for individual applications.</p>	Combined with proposed Plant Survey Area requirement (as described above under "Plant Survey Area").	Same as proposed project, as described above under "Plant Survey Area".	Same as proposed project, with addition of survey required for parcels within the SERA and summer survey for wetland species. Rare plant communities shall also be considered during surveys and included in protective measures.
Protection of Wetlands	<p>Standard No. 14: Properties proposed for development that contain or are adjacent to wetlands shall develop a small diameter observation well to monitor the groundwater level in the shallow upper aquifer. Significant declines in the shallow water table attributable to production from proposed new wells shall necessitate implementation of protective measures by the property owner to preserve water levels within marsh areas. The details of the monitoring program are to be developed by the Office of the Environmental Coordinator at the time of the environmental review of individual water well permit applications.</p>	Delete standard. Seal wells from ground surface to base of aquitard below shallow aquifer and locate new well sites outside proposed SRA boundary.	Same as proposed project.	<p>Same as proposed project with revised SRA per this alternative and requirement to locate replacement wells outside SRA, except for emergency replacement as determined by the Planning Director.</p> <p>Establish a baseline groundwater quality monitoring program to evaluate shallow groundwater characteristics in the Black Lake Canyon.</p>

8-42

8-43

Table 5. (Continued)

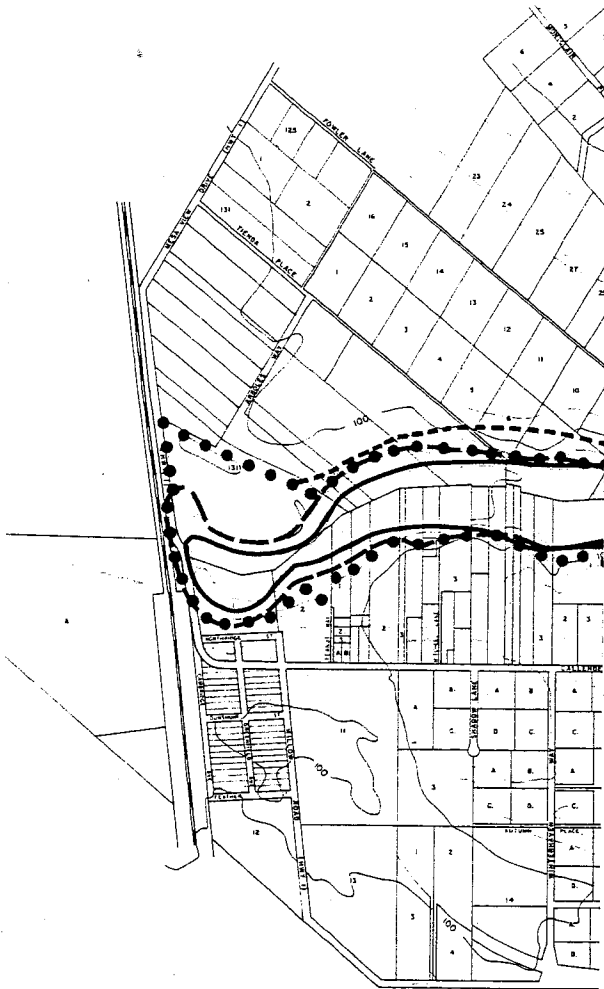
Issues No Project Alternative¹
(Existing SRA Standards¹) Proposed Project² Property Owner's Alternative² Preferred Alternative

Proposed Public Facility Programs	Program No. 8. Preservation. Preservation of this unique environment should be given priority in the county Capital Improvement Program.	Delete program.	Delete program.	Retain program.
	Program No. 9. Resource Protection Plan. The county should seek state and federal grant funds to prepare a resource protection plan for the canyon.	Delete program.	Delete program.	Expand program to include preparation of a habitat management plan for the entire Nipomo Mesa.
	Program No. 10. Open Space Elements. The county should acquire open space easements on lands below the canyon rim.	Retain program.	Delete program.	Retain program.
	Archaeological Resources	None.	None.	Adopt an archaeological survey area coincident with the SERA boundary, at a minimum. Within that area, a reconnaissance-level archaeological survey shall be conducted prior to any ground-disturbing activity that requires environmental review by a qualified archaeologist as approved by the Office of Environmental Coordinator. The archaeological survey shall apply only to the site-specific areas proposed for development. The survey report shall contain a records/literature search and summary of other archaeological reports conducted within the canyon, and shall include impact analysis and proposed mitigation measures to reduce or avoid impacts, in accordance with Appendix K of CEQA.

¹Based on March 1988 LUE as amended (San Luis Obispo County [1988]. Land Use Element, South County Planning Area.) Refer to LUD for additional applicable standards. (Standards 7 through 16 are identical to Porter-Pacific Eucalyptus Tract.)

²Refer to Appendix A. Information based on 1/23/87 letter (Crawford to Rogmas); 5/21/87 letter (Wallace to Crawford); and 11/10/87 report (Rognas to Board of Supervisors); 5/10/88 and 5/19/88 letters (Struble to Willis)

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survey area would coincide with specific elevations shown on Table 26 of Appendix A. The survey area differs from the boundaries of the proposed project in some areas, as shown on Table 2a of Appendix A. Similar to the proposed project, the boundary under this alternative represents an expansion of the plant survey area in some areas and a reduction of survey areas in other locations. While either survey boundary would have adequate coverage of the wetland areas, neither would sufficiently address sensitive upland plants and communities. Significant adverse environmental effects would result from development resulting in the loss of sensitive plants, habitats supporting sensitive plants, or sensitive plant communities.

2. Permit Requirements for Replacement Wells (Standard No. 16)

This alternative would rely on existing LUO standards to govern replacement wells. This would not provide adequate protection of biological or archaeological resources, because the LUO does not address new or replacement wells. Chapter 8 of the County Code, Section 8.40.010 (et. sec.) provides these standards. The requirements of Chapter 8 do not include environmental review of well permits. Without such review, significant adverse impacts to biological and archaeological resources within the canyon could occur. Such impacts could include the removal of rare or sensitive animals or plants or habitat for such species, removal or disturbance to sensitive communities, and the destruction of archaeological resources. These effects would be significant adverse impacts of this alternative.

3. Construction Standards for Replacement Wells (Standard No. 17)

This standard would differ from the proposed project by including the option of increasing the capacity of replacement wells. A replacement well is defined as one that would serve the existing use at the same capacity as the well being replaced (pers. comm., Doherty, 1988). An increase in capacity would be considered a new well. As described in Section IV B (Hydrology), drilling operations can result in substantial ground disturbance, whether classified as new or replacement. Without environmental review of the permit application, the operation could result in the disturbance or loss of sensitive biological and

Additional development standards are based on the delineation of an area of environmental sensitivity bordering the SRA along the north side of the canyon. The Special Environmental Resource Area (SERA) is defined based on the occurrence of known and potential areas of biological and archaeological sensitivity and the occurrence of erosion hazards. The purpose of providing specific standards to parcels located within the SERA is twofold: (1) to protect the biological resources within the recommended SRA boundary from potential erosion and sedimentation originating in areas bordering the SRA; and (2) to protect biological and archaeological resources within the SERA. Erosion control and other development standards, if applied only within the SRA boundary, would not address the erosion hazard on parcels that adjoin the SRA, or protect the unique biological and archaeological resources of the canyon.

The environmental review required under this alternative is intended to achieve a focused analysis of specific development proposals (including permit applications for grading and water wells) by the Environmental Coordinator's office to expedite permit processing. The environmental review should utilize the constraints maps contained in this EIR for the initial determination of a proposed development's potential for adverse environmental impacts. If a proposed project is located outside areas noted on these maps, the only requirements would be a plant survey and archaeological investigation of the disturbance area associated with the proposal.

Table 5 details the proposed standards of this alternative by issue area. The two sets of standards (i.e., SRA and SERA) are briefly summarized below.

1. SRA Standards

- o The SRA boundary shall be expanded to a minimum of 100 feet from the greatest upland extent of wetland vegetation; and in the southeast portion of the canyon to include the oak woodlands and permanent open space designation of the Black Lake Specific Plan; and along the south side of the canyon to include native plant communities; and in the northwest portion of the canyon to include parcel 131 containing sensitive plants and communities.

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2. SERA Standards

- o All parcels proposed for residential or agricultural development located within the SERA shall undergo site-specific environmental review. Issues to be addressed during the review include, but are not limited to, the proposed actions' potential impact to biological and archaeological resources within the SERA and indirectly to resources within the SRA. The Environmental Coordinator's office shall consider the potential environmental effects of the proposed development, and the potential for significant adverse impacts to sensitive plants or animals or the communities they depend on, or archaeological resources.
- o Potential erosion/sedimentation that could result from a proposed action shall be considered during the environmental review in regard to adverse impact to sensitive resources within the SRA and SERA. Erosion control structures as described in the LUO shall be required in order to prevent sedimentation of wetlands and other sensitive biologic resources. In no event shall sediment be allowed to enter the SRA.

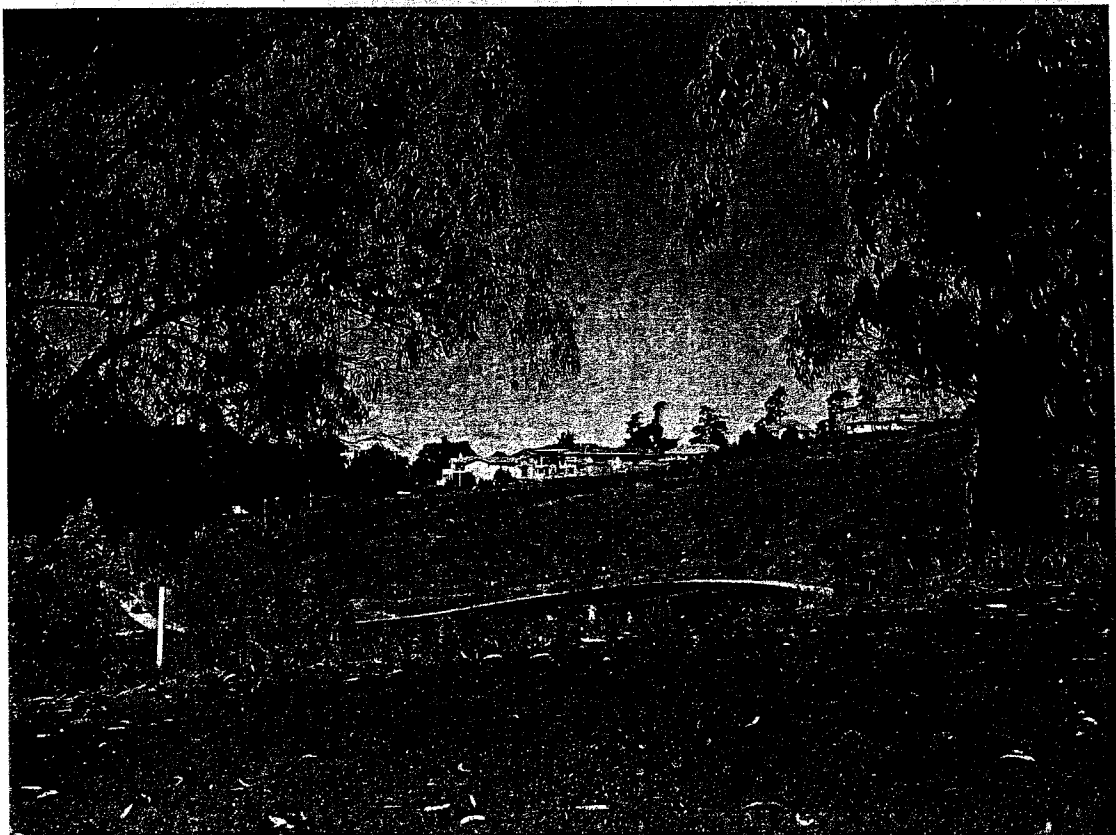
8-48

Photos of Cypress Ridge Homes

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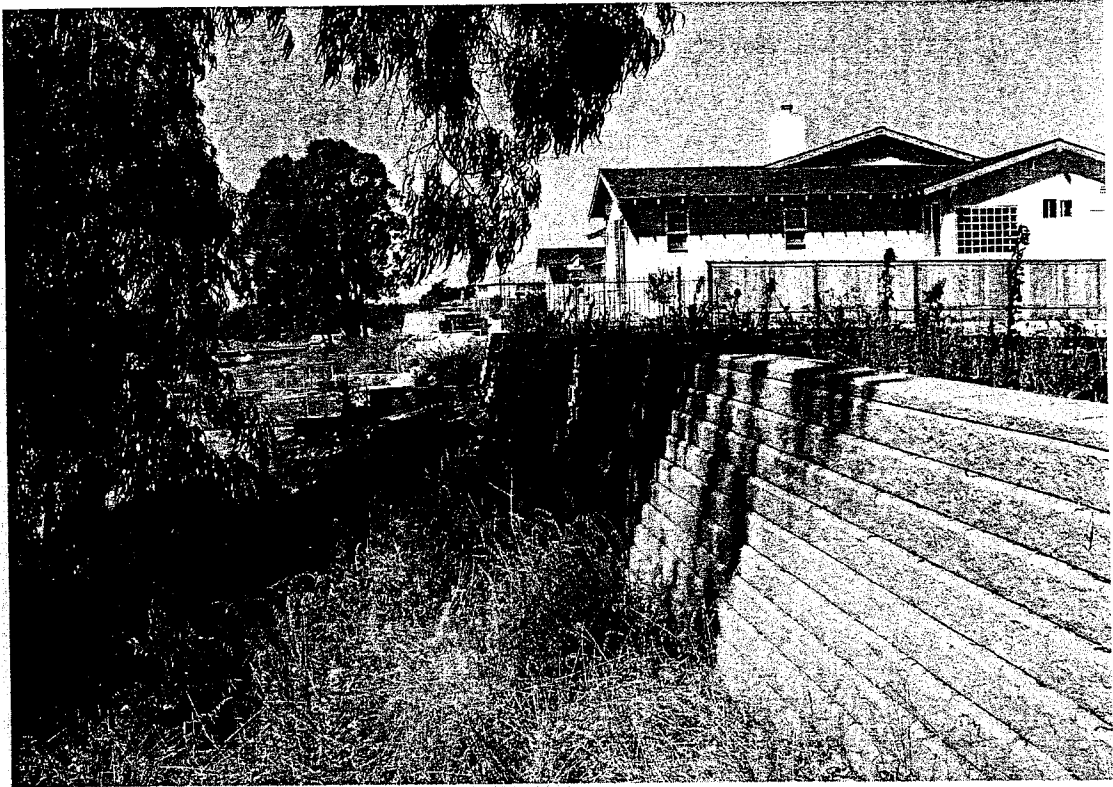


Cypress Ridge home built on canyon slope



Same Auklet Court home viewed from golf course

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Cypress ridge homes built next to slopes $> 15\%$
Homes located on Wigeon Way.

